

ORDINANCE
OF THE MAYOR AND COUNCIL OF THE CITY OF COLLEGE PARK, MARYLAND,
AMENDING CHAPTER 102, “DOGS AND OTHER ANIMALS”, §102-1,
“DEFINITIONS”, §102-2, “NOTIFICATION OF VIOLATION”, AND §102-5,
“COMPLAINTS” AND DELETING §102-9 “VICIOUS ANIMALS THAT ARE NOT
IMPOUNDED” AND §102-13 “ANIMAL CONTROL BOARD” TO DISCONTINUE THE
ANIMAL CONTROL BOARD

WHEREAS, pursuant to Md. Code Ann., Art. 23A, §2, the City of College Park, Maryland (hereinafter, the “City”) has the power to pass such ordinances as it deems necessary to protect the health, safety and welfare of the residents of the municipality; and

WHEREAS, the City provides for regulation of dogs and other animals through Chapter 102 of the City Code; and

WHEREAS, the Council had established an Animal Control Board to conduct public hearings, make fact findings and issue orders to resolve official or private complaints, to oversee animal control activities in the city and to make recommendations to the Mayor and Council regarding implementation of Chapter 102; and

WHEREAS, due to use of the municipal infraction process by the Animal Control Officer, the establishment of the Animal Welfare Committee, and the availability of a County complaint process, the functions of the Animal Control Board are no longer necessary.

Section 1. NOW THEREFORE, BE IT ORDAINED AND ENACTED, by the Mayor and Council of the City of College Park, Maryland that Chapter 102, “Dogs and Other Animals”, §102-1, “Definitions”, be and is hereby repealed, reenacted and amended to read as follows:

§102-1 Definitions.

The following definitions shall apply when used in this chapter:

* * * * *

~~[BOARD—The Animal Control Board]~~

CAPS

[Brackets]

Asterisks * * *

: Indicate matter added to existing law.

: Indicate matter deleted from law.

: Indicate matter remaining unchanged in existing law but not set forth in Ordinance

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Section 2. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the City of College Park, that Chapter 102, “Dogs and Other Animals”, §102-2, “Notification of Violation” be and is hereby repealed, reenacted and amended to read as follows:

§102-2 Notification of violation.

A. * * *

B. Upon the occurrence of any violation of this chapter, the City shall notify the offending owner of the nature of the violation and give that owner not more than 10 days in which to take action to eliminate the violation.

(1) If the owner eliminates the violation within the time specified, no further action by the City will be taken.

(2) ~~[The owner may appeal any notice of violation to the Animal Control Board. This request for appeal shall be in writing and must be received by the City within five weekdays after the owner has received the notice of violation.]~~

~~(3)]If the owner fails to act to eliminate the violation within the time specified [and has not lodged a formal request for hearing before the Animal Control Board,]~~ the City may then commence to prosecute as in the case of any violation of this Code.

Section 3. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the City of College Park, that Chapter 102, “Dogs and Other Animals”, §102-5, “Complaints” be and is hereby repealed, reenacted and amended to read as follows:

§102-5 Complaints.

Any citizen whose peace is disturbed or whose health, safety or welfare is endangered by a violation of this chapter or who observes an instance of animal cruelty or neglect may lodge a complaint with the City, specifying therein the nature of the complaint and identifying the offending animal and owner, if known. The City shall investigate the complaint and, if a violation is confirmed, shall take action as provided under this chapter to obtain abatement of the violation. If no violation can be confirmed, the City shall notify the complaining citizen[;

who may then drop the complaint or may request, in writing, within 10 days, a hearing before the Animal Control Board. If a hearing is requested, the City shall promptly forward the complaint to the Board for its handling.] Cruelty complaints should be referred to appropriate agencies through the City.

Section 4. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the City of College Park, that Chapter 102, “Dogs and Other Animals”, §102-9, “Vicious animals that are not impounded” be and is hereby repealed as follows:

§102-9 RESERVED [~~Vicious animals that are not impounded.~~

~~A. When an Animal Control Officer receives a complaint that a vicious animal is being kept within the City or observes an animal that he or she deems to be vicious, the Animal Control Officer shall notify the Animal Control Board. The Board shall schedule a hearing for the purpose of determining whether the animal is vicious and shall notify the owner of the animal that a hearing has been scheduled and that the owner may appear and present evidence at the hearing. The hearing shall be conducted in accordance with §102-13 of this chapter and the Board's rules and regulations.~~

~~B. If, after a hearing, the Animal Control Board determines that the animal is vicious, the Board shall direct the owner to take specific actions to abate any danger presented by the animal to persons, domestic animals or property, as set forth in the Board's regulations, which actions may include but are not limited to requiring the animal to be spayed or neutered; requiring the animal to be securely restrained at all times within a house, pen or other enclosure; and/or requiring that the animal not be permitted off the premises of its owner except when in a vehicle or proper pet case or, if on a leash, properly muzzled (or fitted with some other appropriate device) so as to remove all danger posed by the animal.~~

~~C. Nothing contained in this section shall prevent an Animal Control Officer from exercising the authority otherwise conferred upon such officer under §102-7 of this chapter to handle or dispose of an impounded animal.]~~

Section 5. **BE IT FURTHER ORDAINED AND ENACTED** by the Mayor and Council of the City of College Park, that Chapter 102, “Dogs and Other Animals”, §102-13, “Animal Control Board” be and is hereby repealed, reenacted and amended to read as follows:

§102-13 RESERVED [Animal Control Board.

~~A. Establishment; powers and duties. The City Council shall establish an Animal Control Board which shall:~~

~~(1) Conduct public hearings, make fact findings and issue orders to resolve official or private complaints regarding animal control under this chapter.~~

~~(2) Oversee animal control activities of the City.~~

~~(3) Recommend to the Mayor and Council rules, regulations and procedures as necessary to implement the provisions of this chapter.~~

~~B. Membership.~~

~~(1) The Board shall consist of five citizen members, who shall be appointed by the Mayor and Council.~~

~~(2) Members of the Board shall be appointed for terms of four years each, except for the initial appointments, when two of the members shall be appointed to two year terms, thus providing staggered terms for members of the Board. In appointing members of the Board, the Mayor and Council shall endeavor to include at least one veterinarian and to include other persons who, by reason of training, avocation or experience, are deemed to have qualifications that would make such persons of particular value to the Board in the execution of its duties. No person may be~~

~~appointed to the Board who has outstanding and uncorrected violations of this chapter. A violation of this chapter by a Board member shall be grounds for removal from the Board.~~

~~(3) The Board members shall select a member to be Chairperson. The Chairperson shall preside over all meetings and hearings conducted by the Board. The Chairperson shall have the power to vote on all issues placed before the Board.~~

~~(4) Any vacancy shall be filled by a citizen appointed by the Mayor and Council to fill the unexpired portion of the term.~~

~~C. Meetings and hearings. The Board will hold public meetings at least once quarterly to discuss matters concerning animal control in the City. The Board will conduct public hearings as required to resolve complaints concerning animal control. The taking of testimony or evidence shall be conducted in open hearings; provided, however, that the Board may, in its sole discretion, recess/retire into closed session as part of its deliberative process, prior to announcing its decision or disposition. To be held, a closed session shall require a vote to do so by a majority of those members of the Board present and voting, and minutes shall be kept recording the vote of those voting for and of those opposed to conducting a closed session. Minutes shall not be kept of the discussion conducted by the Board while it is deliberating in closed session; however, the decision or disposition of the Board relative to the subject matter of the hearing shall be voted upon publicly and recorded in the Board's minutes. All citizens' complaints shall be acted upon by the Board within 30 days of receipt. The Board will publish rules and procedures for conduct of such hearings.]~~

Section 6. **BE IT FURTHER ORDAINED AND ENACTED** by the Mayor and Council of the City of College Park, that upon formal introduction of this proposed Ordinance, which shall be by way of a motion duly seconded and without any further vote, the City Clerk shall distribute a copy to each Council member and shall maintain a reasonable number of copies in the office of the City Clerk and shall publish this proposed ordinance or a fair summary thereof in a newspaper having a general circulation in the City of College Park together with a notice setting out the time and place for a public hearing thereon and for its consideration by the Council. The public hearing, hereby set for _____ P.M. on the _____ day of _____, 2012, shall follow the publication by at least seven (7) days, may be held separately or in connection with a regular or special Council meeting and may be adjourned from time to time. All persons interested shall have an opportunity to be heard. After the hearing, the Council may adopt the proposed ordinance with or without amendments or reject it. As soon as practicable after adoption, the City Clerk shall have a fair summary of the Ordinance and notice of its adoption published in a newspaper having a general circulation in the City of College Park and available at the City's offices. This Ordinance shall become effective on _____, 2012 provided that a fair summary of this Ordinance is published at least once prior to the date of passage and once as soon as practical after the date of passage in a newspaper having general circulation in the City.

INTRODUCED by the Mayor and Council of the City of College Park, Maryland at a regular meeting on the _____ day of _____ 2012.

ADOPTED by the Mayor and Council of the City of College Park, Maryland at a regular meeting on the _____ day of _____ 2012.

EFFECTIVE the _____ day of _____, 2012.

ATTEST:

**THE CITY OF COLLEGE PARK,
MARYLAND**

By: _____
Janeen S. Miller, CMC, City Clerk

By: _____
Andrew M. Fellows, Mayor

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**

Suellen M. Ferguson, City Attorney